
SECOND SUBSTITUTE HOUSE BILL 2514

State of Washington 60th Legislature 2008 Regular Session

By House Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Quall, Appleton, McCoy, Morris, McIntire, Nelson, Kagi, and Upthegrove)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to protecting southern resident orca whales from
2 disturbances by vessels; adding a new section to chapter 77.15 RCW;
3 adding a new section to chapter 77.12 RCW; creating new sections; and
4 prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the resident
7 population of orca whales in Washington waters (*Orcinus orca*), commonly
8 referred to as the southern residents, are enormously significant to
9 the state. These highly social, intelligent, and playful marine
10 mammals, which the legislature designated as the official marine mammal
11 of the state of Washington, serve as a symbol of the Pacific Northwest
12 and illustrate the biological diversity and rich natural heritage that
13 all Washington citizens and its visitors enjoy.

14 However, the legislature also finds that the southern resident
15 orcas are currently in a serious decline. Southern residents
16 experienced an almost twenty percent decline between 1996 and 2001.
17 The federal government listed this orca population as depleted in 2003,
18 and as an endangered species in 2005. The federal government has

1 identified impacts from vessels as a significant threat to these marine
2 mammals.

3 In 2006, after listing the southern resident orcas as endangered,
4 the federal government designated critical orca habitat and released a
5 proposed recovery plan for the southern resident orcas. The federal
6 government has initiated the process to adopt orca conservation rules,
7 but this process may be lengthy. Additionally, although existing whale
8 and wildlife viewing guidelines are an excellent educational resource,
9 these guidelines are voluntary measures that cannot be enforced.

10 Therefore, the legislature intends to protect southern resident
11 orca whales from impacts from vessels, and to educate the public on how
12 to reduce the risk of disturbing these important marine mammals.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
14 to read as follows:

15 (1) Except as provided in subsection (2) of this section, it is
16 unlawful to:

17 (a) Approach, by any means, within three hundred feet of a southern
18 resident orca whale (*Orcinus orca*);

19 (b) Cause a vessel or other object to approach within three hundred
20 feet of a southern resident orca whale;

21 (c) Intercept a southern resident orca whale. A person intercepts
22 a southern resident orca whale when that person places a vessel or
23 allows a vessel to remain in the path of a whale and the whale
24 approaches within three hundred feet of that vessel;

25 (d) Fail to disengage the transmission of a vessel that is within
26 three hundred feet of a southern resident orca whale, for which the
27 vessel operator is strictly liable; or

28 (e) Feed a southern resident orca whale, for which any person
29 feeding a southern resident orca whale is strictly liable.

30 (2) A person is exempt from subsection (1) of this section where:

31 (a) That person reasonably determines that compliance with the
32 requirements of subsection (1) of this section will threaten the safety
33 of the vessel, the vessel's crew or passengers, or is not feasible due
34 to vessel design limitations, or because the vessel is restricted in
35 its ability to maneuver due to wind, current, tide, or weather;

36 (b) That person is lawfully participating in a commercial fishery

1 and is engaged in actively setting, retrieving, or closely tending
2 commercial fishing gear;

3 (c) That person is acting in the course of official duty for a
4 state, federal, tribal, or local government agency; or

5 (d) That person is acting pursuant to and consistent with
6 authorization from a state or federal government agency.

7 (3) Nothing in this section is intended to conflict with existing
8 rules regarding safe operation of a vessel or vessel navigation rules.

9 (4) For the purpose of this section, "vessel" includes aircraft,
10 canoes, fishing vessels, kayaks, personal watercraft, rafts,
11 recreational vessels, tour boats, whale watching boats, vessels engaged
12 in whale watching activities, or other small craft including power
13 boats and sail boats.

14 (5) A violation of this section is a natural resource infraction
15 punishable under chapter 7.84 RCW.

16 NEW SECTION. **Sec. 3.** The legislature encourages the state's law
17 enforcement agencies to utilize existing statutes and regulations to
18 protect southern resident orca whales from impacts from vessels,
19 including the vessel operation and enforcement standards contained in
20 chapter 79A.60 RCW.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.12 RCW
22 to read as follows:

23 The department and the state parks and recreation commission shall
24 disseminate information about section 2 of this act, whale and wildlife
25 viewing guidelines, and other responsible wildlife viewing messages to
26 educate Washington's citizens on how to reduce the risk of disturbing
27 southern resident orca whales. The department and the state parks and
28 recreation commission must, at minimum, disseminate this information on
29 their internet sites and through appropriate agency publications,
30 brochures, and other information sources. The department and the state
31 parks and recreation commission shall also attempt to reach the state's
32 boating community by coordinating with appropriate state and
33 nongovernmental entities to provide this information at marinas, boat
34 shows, boat dealers, during boating safety training courses, and in
35 conjunction with vessel registration or licensing.

1 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this
2 act, referencing this act by bill or chapter number, is not provided by
3 June 30, 2008, in the omnibus appropriations act, this act is null and
4 void.

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